



<http://le.utah.gov>

Utah State Legislature

Senate • Utah State Capitol Complex • 320 State Capitol

PO Box 145115 • Salt Lake City, Utah 84114-5115
(801) 538-1035 • fax (801) 538-1414

House of Representatives • Utah State Capitol Complex • 350 State Capitol

PO Box 145030 • Salt Lake City, Utah 84114-5030
(801) 538-1029 • fax (801) 538-1908

April 28, 2010

Sen. D. Chris Butters, Senate Chair
Rep. Paul Ray, House Chair
Health and Human Services Interim Committee
State Capitol Complex
Salt Lake City, Utah 84114

Subject: Use of "Liberally Construed" in Utah State Administrative Rules

Dear Sen. Butters and Rep. Ray:

An administrative rule of the Department of Health (see attached) states that the rule shall be "liberally construed," or in other words, broadly or variably interpreted and enforced by the agency. This approach is the opposite of "strictly construed," which means that an administrative rule is interpreted and enforced according to the plain language of the rule.

The Administrative Rules Review Committee requests that your committee review whether the Department of Health, through its interpretation and enforcement of the phrase, "liberally construed" in administrative rule, may be moving beyond the original intent of state law, and recommend whether the phrase should be removed from the agency's rule. We also ask that you provide us with your recommendation by October of this year.

The Committee is not requesting that your committee review the application of "liberally construed" in an agency's adjudicative proceedings, as those uses of the phrase in rule clearly aid in protecting the rights of the public.

Thank you very much for your help in determining whether laws passed by the Legislature are being interpreted and enforced as intended.

Sincerely,

Senator Howard Stephenson, Chair
Administrative Rules Review Committee

Representative Curtis Oda, Chair
Administrative Rules Review Committee